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Remarks

Reconsideration of the above-captioned application is respectfully requested. Claims 1-4 and 7 have been rejected under 35 U.S.C. §102 as being anticipated by the outhouse fan system of Adkins, II (USPN 5,131,888), and Claims 6 and 8 have been rejected under 35 U.S.C. §103 as being obvious over Adkins, II in view of Official Notice. Claim 5 has been rejected under 35 U.S.C. §103 as being obvious over Adkins, II in view of various secondary references allegedly showing support rods, and Claims 9, 11-18, and 20 have been rejected under 35 U.S.C. §103 as being obvious over Longo, Sr. (USPN 5,857,807) in view of Adkins, II.

To overcome the Examiner's rejections, independent apparatus claim 1 has been amended to recite that the fan is disposed between the flanges of the pipe module as shown in the Figure. Claim 4 has been canceled, and Claim 5 amended accordingly. Claims 1-3 and 5-20 remain pending.

Rejections Under 35 U.S.C. §102

Claim 1, which has been rejected under 35 U.S.C. §102 as being anticipated by Adkins, II, now recites structure neither taught nor suggested in Adkins, II, namely, that the fan is between the flanges. In Adkins, II the relied-upon fan 12 is not between the relied-upon flanges 13', 13'' but rather appears to be co-planar with the flange 13'' as shown in Figure 1 so that it can be located at the beginning of the outhouse exhaust pipe 21 as intended by Adkins. The rejection is overcome.

Rejections Under 35 U.S.C. §103

Claims 6 and 8 have been rejected under 35 U.S.C. §103 as being obvious over Adkins, II in view of Official Notice, Claim 5 has been rejected under 35 U.S.C. §103 as being obvious over Adkins, II in view

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of various secondary references allegedly showing support rods, and Claims 9, 11-18, and 20 have been rejected under 35 U.S.C. §103 as being obvious over Longo, Sr. (USPN 5,857,807) in view of Adkins, II.

Of relevance to the present rejections is the proposed combination of Longo, Sr., which is directed to a landfill and which discloses a "blower 28" for exhausting methane from the landfill wells without further elaboration about the blower, with Adkins, II. Most likely, the blower 28 is a conventional landfill blower that is powered by the main AC electrical power grid. The rejection proposes replacing Longo, Sr.'s blower with the fan of Adkins, II because the fan of Adkins, II is "inexpensive and portable".

Unfortunately for the *prima facie* case, the prior art nowhere motivates "inexpensive and portable" fans for use in landfills, as is otherwise required by MPEP §2143.01 (in seeking to establish a *prima facie* case of obviousness, it must be identified where the prior art provides a motivating suggestion to make the modifications proposed, citing *In re Jones*). "To imbue one of ordinary skill in the art with knowledge of the invention, when no prior art reference or references of record convey or suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome", *Al-Site Corp. v. VSI Int'l. Inc.*, 174 F.3d 1308, 50 USPQ.2d 1161 (Fed. Cir. 1999).

Longo, Sr. nowhere suggests that its fan is too expensive (indeed, solar cells are not inexpensive in the first place), or that portability is required. The reason Adkins, II motivates portability - because it is installed in a movable outhouse - is simply not present in the landfill art. Landfills do not move. Thus, the motivation in Adkins, II to use a portable fan system bears no relevance to anything taught in Longo, Sr.

Indeed, only the present invention has made the critical observation that is lacking in the cited references to use a solar-powered fan in landfills. Specifically, as set forth in the present background, "as recognized by the present invention, many landfills may lack the electrical infrastructure to power the various

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components that are needed to actively eliminate methane from a landfill. Installing the necessary infrastructure can be prohibitively costly." When a patent applicant makes a critical observation that has not been made before and then provides a solution, that is not indicative of obviousness, but rather the opposite - independent Claims 9 and 15 are patentable.

The fact that Applicant has focussed its comments distinguishing the present claims from the applied references and countering certain rejections must not be construed as acquiescence in other portions of rejections not specifically addressed. For instance, "official notice" has been taken of 12 volt batteries and of voltage regulators, implicitly finding not only that these elements are well known but that their incorporation into the specific structure claimed is also well-known. But simply observing that an element is well known, without also showing a prior art suggestion to combine it in the particular combination claimed, satisfies only half the requirement for making a *prima facie* case. In any case, Applicant does not acquiesce in any taking of Official Notice, and hereby seasonably requests a prior art showing not only of the existence of these elements but also a proper demonstration of where the prior art suggests combining them with the other elements claimed, MPEP §2144.03.

With respect to the allegation that it would have been obvious to use support rods in Adkins, II for "strength", nowhere has an identification been made of where Adkins, II might suggest the need for greater strength in its rather small, portable outhouse fan system. Accordingly, regardless of whether such rods are known, absent a specific reason that is relevant to Adkins, II to use the rods, the proffered suggestion to combine falls for failing to find prior art support.

The Examiner is cordially invited to telephone the undersigned at (619) 338-8075 for any reason which would advance the instant application to allowance.

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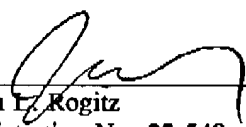
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